

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISON

Juan Alonzo-Miranda §
Plaintiff, §
§
vs. § CIVIL ACTION NO. : 5:13-CV-01057-OLG-HJB
§
§
Schlumberger Technology Corporation §
Defendant. §

Plaintiff's Motion to Reconsider

Plaintiff, Juan Alonzo-Miranda, files this Motion to Reconsider the Court's Order Adopting Report and Recommendations (Dkt. #106) and would show the Court as follows:

Intervening Fifth Circuit Case Law

The Court's Order (Dkt. #106, signed December 15, 2014) appears to have crossed paths with Plaintiff's Supplement (Dkt. #105, filed December 16, 2014) citing the intervening authority of *E.E.O.C. v. LHC Group, Inc.*, ___ F.3d ___, 2014 WL 7003776 (5th Cir. Dec. 11, 2014). If the Court had the benefit of this authority prior to issuing its order, the plaintiff respects that. However, if the Court had not yet reviewed this new Fifth Circuit authority, Plaintiff believes the case to be controlling. As discussed in Plaintiff's Supplement (Dkt. #105), the Fifth Circuit has now eliminated the precise requirement which the Magistrate Court relied on in granting partial summary judgment to Defendant. The case's instruction on mixed motives as an alternative to pretext is also highly relevant, as the statements which the Fifth Circuit held were evidence of mixed motives are similar to Defendant's admissions in this case. *E.E.O.C. v. LHC Group, Inc.* at *11. The plaintiff thus believes that reconsideration of the Court's Order (Dkt. #106) is appropriate in light of the intervening authority of *E.E.O.C. v. LHC Group, Inc.*

For the foregoing reasons, and as set out in Plaintiff's Objections to the Report and Recommendation (Dkt. #104) and Plaintiff's Supplement (Dkt. #105), Plaintiff respectfully requests

that the Court reconsider its Order (Dkt. #106), reject the conclusions of parts III.B and III.C of the Report (Dkt. #103) and deny Schlumberger's Motion for Summary Judgment (Dkt. #45) in its entirety, or in the alternative, remand the issue to the Magistrate Court.

Respectfully submitted,

Juan Alonzo-Miranda,
By his attorneys,

/s/John W. Griffin, Jr._____

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Counsel for the Plaintiff

Certificate of Conference

I certify that I conferred via email with William Davis, attorney for Defendant, on December 16, 2014 and that Mr. Davis stated that he opposed the filing of this motion.

/s/ John W. Griffin, Jr.
John W. Griffin, Jr.

Certificate of Service

I certify that a true and correct copy of this document has been served upon the defendant via the electronic filing system of the United States District Court for the Western District of Texas on December 16, 2014.

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/s/ John W. Griffin, Jr.
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